

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

ROBERT SPENCER,)
Plaintiff,)
v.) Civil Action No. 11-cv-11068-PBS
MARRIOTT INTERNATIONAL, INC.,)
Defendant.)

REPORT AND RECOMMENDATION ON DEFENDANT'S MOTION TO DISMISS
[Docket No. 5]

November 25, 2011

Boal, M.J.

On February 22, 2011, pro se Plaintiff Robert Spencer (“Spencer”) filed a complaint alleging that Defendant Marriott International, Inc. (“Marriott”) violated Mass. Gen. Laws c. 149 § 152A (the “Tip Statute”). Marriott removed the case to this court on June 15, 2011, (Docket No. 1), and then moved to dismiss Spencer’s complaint.¹ (Docket No. 5). Since that time, Spencer has failed to appear and/or participate in the discovery process of this case. For the reasons discussed below, this Court recommends that the District Court dismiss the case for lack of prosecution. Should the District Court decide not to dismiss the case on that basis, then this Court recommends that the District Court grant in part and deny in part Marriott’s motion.

¹ On October 6, 2011, Judge Saris referred Marriott’s motion to dismiss to this Court for report and recommendation.